

Amend Sections 27.60, 27.82, 27.83, 28.26,
28.27, 28.28, 28.29, 28.54, 28.55, and 28.58,
Title 14, California Code of Regulations (CCR).
Re: 2004 Changes to Recreational Groundfish Fishery
Regulations for Consistency with Federal Rules

- ## V. Update:

Following the receipt of public comment and discussion of the regulations, the Commission voted to adopt the proposed regulations which will conform State regulations with the federal regulations for the 2004 recreational groundfish fishery. In addition, the Commission adopted the options to align ocean whitefish and California sheephead fishing depths and seasons with rockfish and lingcod fishing depths and seasons. The Commission also adopted the proposed regulations to clarify or simplify Sections 27.60, 27.82, and 27.83, Title 14, CCR, the proposed regulations to modify the groundfish fishery closure provisions, and several non-substantive technical changes to the regulations.

The Commission did not adopt the proposed regulations to exempt shore-based divers and anglers from the closed periods for rockfish, lingcod and associated species (including cabezon, greenlings of the genus *Hexagrammos*, California scorpionfish, California sheephead, and ocean whitefish).

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

1. Bob Humphrey, Central California Council of Dive Clubs, Marine Resources Director, recreational diver/spearfisherman, e-mail received October 20, 2003.
 - (a) Supports exempting shore-based divers and anglers from the seasonal closures for rockfish, lingcod and associated species. He argues that (1) spearfishing has a low impact on the resource; (2) spearfishing is selective and there is no bycatch; (3) the closures affect spearfishermen more than anglers, because spearfishermen can only take nearshore species and anglers have other options; and (4) allowing spearfishing during the closures will help small businesses.
 - (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures. He argues that use of a non-motorized watercraft will (1) increase safety, (2) disperse fishing pressure away from reefs near access points, and (3) increase fishing opportunities for divers.
 - (c) He recommends prohibiting the use motorized vessels and prohibiting all fishing gear except spear gear aboard non-motorized watercraft used while spearfishing during the seasonal closures.

Department Response:

- (a) The Department is opposed to an exemption for shore-based divers and anglers. The Department's opposition is based on the following:
 - The proposed closure is only for two months.
 - Currently, shore-based divers and anglers take a significant proportion of the recreational catch of shallow nearshore rockfish, cabezon and greenlings north of Point Conception. On average, during March and April (the proposed closed period for the Central Rockfish Lingcod Management area or RLMA) from 1996 through 1999 (recent years with no closures), shore-based divers and anglers north of Point Conception took 8 percent of the shallow nearshore rockfish, 73 percent of the cabezon, and 89 percent of the greenlings. Of the species affected by the proposed closure, only cabezon showed up in significant numbers in the catch of shore-based divers and anglers south

of Point Conception. From 1996 through 1999, on average, shore-based divers and anglers accounted for 6 percent of the total recreational catch of cabezon in the Southern RLMA during the proposed closed period (January and February).

- Divers using spear gear do take a portion of the recreational allowance for nearshore species. From 1998 through 2002, north of Point Conception, spear gear (for all fishing modes, not just shore modes) accounted for 5 percent of the recreational take of cabezon and 5 percent of the recreational take of greenlings. From 1998 through 2002, south of Point Conception, spear gear (for all fishing modes, not just shore modes) accounted for 8 percent of the recreational take of cabezon and 16 percent of the recreational take of California sheephead.
 - Cabezon, greenlings and California sheephead are under restrictive Optimum Yields (OYs). Providing opportunities for one sector of the recreational fishing community to fish for these species during the prescribed closure periods may result in early attainment of annual harvest limits and in-season closures for these species.
 - The estimates used to determine fishing seasons and depths for all groundfish are based on no recreational fishing for groundfish or associated species during the closed periods. These seasons and depths have already been adopted by the Pacific Fishery Management Council (PFMC) for 2004. If the State allowed fishing during those closed periods, the annual harvest guidelines might be exceeded before the end of the year and might prompt in-season closures.
 - If there is an in-season closure, the proposed exemption may become a *de facto* allocation to shore-based divers and anglers since the closed periods are early in the year.
 - This proposal adds to the complexity of the regulations, makes it more difficult for the public to understand and comply with the regulations, and creates a number of enforcement difficulties (for a discussion of this issue see the Initial Statement of Reasons, page 12).
- (1) The Department contends that spearfishing does impact the resource; see Department response #1(a), above.
 - (2) The Department agrees, but this fact does not override the concerns outlined in Department response #1(a), above.
 - (3) Comment noted.
 - (4) Comment noted.
- (b) The Department is opposed to Option 2, authorizing the use of non-motorized watercraft. The use of non-motorized watercraft, such as kayaks, may open areas that are inaccessible from shore and may

increase the take of nearshore rockfishes and associated species during the “closed periods”.

- (1) Comment noted.
- (2) See Department response #1(b), above.
- (3) Comment noted.
- (c) The proposed regulation prohibits the use motorized vessels, and prohibits all fishing gear except spear gear aboard non-motorized watercraft used while spearfishing during the seasonal closures.

2. John M. Morozumi, recreational diver/spearfisherman, e-mail received October 21, 2003.

- (a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species. He argues that spearfishing (1) has a relatively low impact on the resource and is ecologically sound, and (2) demands a very high level of sportsmanship.
- (b) Supports allowing divers/spearfishermen to use vessel when spearfishing during seasonal closures for safety reasons.

Department Response:

- (a) See Department response #1(a), above.
 - (1) See Department response #1(a), above.
 - (2) Comment noted.
- (b) The Department is opposed to the use of vessels, because their use may open areas that are inaccessible from shore and may increase the take of nearshore rockfishes and associated species during the “closed periods”.

3. Aaron Lauer, recreational diver/spearfisherman with NorCal Freedive, e-mail received October 22, 2003.

- (a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species. He argues that take by divers is insignificant compared to other forms of fishing.
- (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures, because it will increase safety and disperse fishing pressure.

Department Response:

- (a) See Department response #1(a), above.
- (b) See Department response #1(b), above.

4. John Grant, recreational diver/spearfisherman, e-mail received October 22, 2003.
- (a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species, because he states that it is the most ecologically sound way to take fish.
 - (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures.

Department Response:

- (a) See Department response #1(a), above.
- (b) See Department response #1(b), above.

5. Benjamin Belfiglio, recreational diver/spearfisherman, e-mail received October 22, 2003.
- (a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species.
 - (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures, because it will increase safety and disperse fishing pressure.

Department Response:

- (a) See Department response #1(a), above.
- (b) See Department response #1(b), above.

6. Francisco Serrat, recreational diver/spearfisherman, e-mail received October 23, 2003.
- (a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species. He argues that (1) the closures affect spearfishermen more than anglers, because spearfishermen can only take nearshore species and anglers have other options; (2) spearfishing has a smaller impact than angling; and (3) spearfishermen can target specific types of fish.
 - (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures.

Department Response:

- (a) See Department response #1(a), above.
 - (1) Comment noted.
 - (2) The Department contends that spearfishing impacts the resource; see Department response #1(a), above.
 - (3) See Department response #1(a)(2), above.

(b) See Department response #1(b), above.

7. Edwin Glass, e-mail received October 24, 2003.
Recommends allowing breath-hold or “freedive” spearfishermen only to take cabezon and lingcod during the seasonal closures for rockfish, lingcod and associated species, and allowing them to use vessels.

Department Response:

This is beyond the scope of the proposed regulations, and does not address all the Department’s concerns outlined in Department response #1(a), above.

8. Ernest Schultz, e-mail received October 25, 2003.
(a) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures.
(b) Recommends allowing only “freedivers” to spearfish, because it would reduce the number of fish taken.

Department Response:

- (a) See Department response #1(b), above.
(b) The Department agrees that limiting spearfishing to only “freedivers” would probably limit the number of fish taken by spear gear. However, this is beyond the scope of the proposed regulations, and does not address all the Department’s concerns outlined in Department response #1(a), above.

9. Brett Mosher, e-mail received October 28, 2003.
Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species. He argues that (a) divers have a small impact on fish populations, because divers have limited shore access and limited fishing range, and (b) divers have few other species to target during the closed periods.

Department Response:

See Department response #1(a), above.

- (a) See Department response #1(a), above.
(b) Comment noted. The closed period is only for two months, and a number of other recreational species have longer closed periods.

10. Curtis Haney, recreational abalone diver and spearfisherman, e-mail received November 4, 2003.
(a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species.

- (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures.
- (c) Stated that the shore-based exemption and Option 2 would not be adopted due to the influence of commercial fishermen.

Department Response:

- (a) See Department response #1(a), above.
- (b) See Department response #1(b), above.
- (c) Comment noted. All the proposed regulations regard recreational fishing, none of the proposals would influence or impact commercial fishing or the regulation of commercial fishing. The proposed regulations do not affect the allocation of resources between the recreational and commercial sectors.

11. Jim Webb, President, Cambria Fishing Club, letter not dated. Recommends establishing a slot limit for lingcod (with a lower limit of 24 inches and an upper limit of around 34 inches) to further protect this overfished species by preventing the take of large gravid females and small nest-guarding males.

Department Response:

Recommendation noted, but it is beyond the scope of the proposed regulations.

12. Carol Reed, diver, e-mail received November 4, 2003.
- (a) Supports exempting divers/spearfishermen from the seasonal closures for rockfish, lingcod and associated species. She argues that (1) the amount of fish taken by divers is minimal and (2) divers are selective. (3) She also states that divers support local economies.
 - (b) Supports Option 2 for the shore-base exemption that allows divers to use non-motorized watercraft while spearfishing during the closures.
 - (c) She noted that, while diving in Carmel in October, she saw large schools of black rockfish, but few cabezon and greenlings. She also noted that she saw 10 commercial squid boats fishing nearby and wondered what happened to their bycatch.

Department Response:

- (a) See Department response #1(a), above.
 - (1) See Department response #1(a), above.
 - (2) See Department response #1(a)(2), above.
 - (3) Comment noted.
- (b) See Department response #1(b), above.

- (c) Comment noted. Squid boats typically fish over sandy or muddy bottoms; it is unlikely that they would catch cabezon or greenlings that inhabit rocky reefs.
13. Dick Young, commercial fisherman and recreational diver, letter received December 2, 2003.
- (a) Recommends prohibiting the use of spear gear for any fish with a size limit, because it is difficult to determine the exact size before spearing the fish (which kills the fish).
 - (b) Recommends that recreational harvested keep the first 10 rockfish that they catch regardless of species, because recreational anglers have difficulty identifying rockfish species.
 - (c) Recommends that the Department better enforce Fish and Game regulations.
 - (d) Recommends making the regulation booklets easier to understand.
 - (e) Recommends establishing punch cards for salmon and rockfish.
 - (f) Opposes raising the cost of a sportfishing license.

Department Response:

- (a) Recommendation noted, but it is beyond the scope of the proposed regulations. Mr. Young also brought forth this concern as part of the biennial review of sportfishing regulations. The Department responded to this proposed change in *Public Proposed Changes to Ocean Sport Fishing Regulations For 2004-2005, and Department Recommendations for Acceptance or Denial of Those Changes* (Comment L2, page 3).
 - (b) Recommendation noted, but it is beyond the scope of the proposed regulations.
 - (c) Recommendation noted.
 - (d) Recommendation noted.
 - (e) Recommendation noted, but it is beyond the scope of the proposed regulations.
 - (f) The cost of sportfishing licenses are not under the Commission's authority.
14. Kenyon Hensel, commercial fisherman, member of the Pacific Fishery Management Council Groundfish Advisory Panel, comments made at December 4, 2003 Commission meeting.
- (a) Recommends that in the future the Department and Commission consider establishing regulations that allow the fishery to be open one month and then closed to review data, and then re-open if the data warrant.
 - (b) Recommends that in the future the Department and Commission consider a rockfish stamp similar to the salmon stamp as an alternative to bag limits.

Department Response:

- (a) Recommendation noted, but it is beyond the scope of the proposed regulations.
- (b) Recommendation noted, but it is beyond the scope of the proposed regulations.

15. Jim Bassler, commercial fisherman, comments made at December 4, 2003 Commission meeting.

- (a) Supports the Department's recommendations.
- (b) Recommends that in the future the bag limits be simplified. He expressed the opinion that the bag limits are too complicated, and that they are difficult for the general public to follow. He noted that data shows that the rockfish sub-bag limits were exceeded. Perhaps a two-tiered system could be implemented: commercial passenger fishing vessels (CPFVs) have one type of bag limit with sub-limits, and the members of the general public have a simple bag limit.

Department Response:

- (a) Comment noted.
- (b) Recommendation noted. However, it is beyond the scope of the proposed regulations.

16. Robert Ingles, Golden Gate Fishermen's Association, commercial passenger fishing vessel operator, comments made at December 4, 2003 Commission meeting.

- (a) States that it is important for CPFV businesses to have the months of July, August, September and October open for groundfish fishing. Recommends adding the options to close the fishery in May and June if more fish is caught from January through April than expected, and re-open the fishery in July. Recommend adding an option to keep July through October open for groundfish fishing.
- (b) Recommends reducing the number of months fishing is allowed to insure that July through October are open for groundfish fishing.

Department Response:

- (a) Recommendation noted. The Department and PFMC recognize the economic importance of these months to CPFV operators, and the fishery is proposed to be open during these months. The fishery will only be closed in July, August, September and/or October if an emergency closure is needed because an OY has been exceeded. The proposal to close the fishery if more than expected is taken early in the year is beyond the scope of the

proposed regulations. In addition, at this time, the Department and PFMC do not have the capability to estimate the recreational catch “in-real time”; it takes several weeks or longer to estimate the catch for any particular month. The Department is working to improve our estimation techniques.

- (b) The proposed regulations are based on long-term averages of recreational catch. The proposed regulations do not provide options for the number of months that the fishery will be open.

17. Bob Osborn, United Anglers of Southern California, comments made at December 4, 2003 Commission meeting.

- (a) Support the Department’s recommendations.
- (b) Recommends that the Commission apply the PFMC’s methods for determining OY to the 19 species covered by the Nearshore Fishery Management Plan.
- (c) States that Sections 27.82 and 52.10, Title 12, CCR place unfair burdens on recreational anglers.
- (d) States that the most important factor for anglers is not the number of fish that they catch, but the opportunity to fish.

Department Response:

- (a) Comment noted.
- (b) The methods are established in the Nearshore Fishery Management Plan previously adopted by the Commission, and are beyond the scope of the proposed regulations.
- (c) Comment noted.
- (d) Comment noted.

18. Melvin A. de la Motte, President, Central Coast Fisheries Coalition, comments made at December 4, 2003 Commission meeting.

- (a) Supports the proposal to extend the seasons and fishing depths.
- (b) Recommends increasing the OYs.
- (c) States that it is unlikely that the fishery will actually be open for the full 10 months (*i.e.*, will close due to attainment of OY).

Department Response:

- (a) Comment noted.
- (b) Modification of the OYs is beyond the scope of the proposed regulations.
- (c) Comment noted. The proposed seasons and fishing depths are based on long-term averages of recreational catch. In July and August of 2003, the estimated catches for the recreational groundfish fishery far exceeded the long-term average for those months. A number of factors contributed to the higher than expected catches (including changes in fishing effort due to

closures earlier in the year, unanticipated effects of sub-bag limits on discards, and oceanographic conditions that resulted in a more northerly distribution of salmon). We can not anticipate all the factors that will change fishing effort; our best estimate of the future is past effort. If we experience unusual events, as in 2003, it may become necessary to close selected fisheries due to early attainment of OYs.

19. Randy Fry, Recreational Fishing Alliance, comments made at December 4, 2003 Commission meeting.
- (a) Supports exempting shore-based divers and anglers from the seasonal closures for rockfish, lingcod and associated species.
 - (b) Recommend that shore-based divers and anglers also be allowed to fish if there is an emergency closure for one or more of the groundfish species.
 - (c) Recommends aligning the recreational and commercial seasons.
 - (d) Proposes an option to allow shore-based divers and anglers to take lingcod and deeper nearshore species such as blue and black rockfishes.

Department Response:

- (a) See Department response #1(a), above.
- (b) An emergency closure would only be needed if an OY has been exceeded or is projected to be exceeded. The Department contends all recreational fishing should stop for a species where the take has exceeded the OY.
- (c) Recommendation noted, but it is beyond the scope of the proposed regulations.
- (d) Recommendation noted, but it is beyond the scope of the proposed regulations.

20. Dave French, CPFV operator, letter received December 2, 2003.
- (a) States that a statewide "quota" (OY) is unfair if all areas have the same fishing seasons. At certain times of the year, poor weather limits fishing in half of the state, while fishing in the other half of the state is not constrained by poor weather. Thus, the statewide OY is being taken by anglers and divers in the half of the state that is able to fish. He apparently recommends establishing separate OYs for central and southern California. In addition, he recommends using CPFV logbook data to determine the seasons for each area or each port.
 - (b) He states that CPFV operators have suffered because of the fishery closures, and that he lost a lot of business due to the closure in December 2003.

- (c) He states that even if the Commission sets a 10-month season, the PPMC can close the fishery based on “flawed information”.
- (d) He states that if the Department can’t submit legal paperwork in a timely manner, it cannot be expected to manage a fishery.
- (e) He states that he will become more involved in the regulatory process in the future.

Department Response:

- (a) Recommendations noted, but they are beyond the scope of the proposed regulations.
- (b) Comment noted.
- (c) Comment noted.
- (d) Comment noted.
- (e) The Department welcomes his participation in the regulatory process and looks forward to his recommendations and insights.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
 California Fish and Game Commission
 1416 Ninth Street
 Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
 1416 Ninth Street
 Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

A variety of management measures were considered that would achieve rebuilding goals for overfished rockfish, while providing California’s recreational fishery participants somewhat improved (compared with 2003) opportunities to fish for rockfish, lingcod and associated species (California scorpionfish, cabezon, greenlings, ocean whitefish, and California sheephead) in nearshore waters. In addition to the management measures and options listed in Section III (above), the following were considered:

Size Limits and Retention Allowance (Bag Limits)

1. Establish a slot limit for cabezon of 15 to 22 inches (only fish between these lengths could be retained).

2. Reduce the bag limit or do not allow retention of cabezon (bag limit would be zero, one, or two fish)
3. Exempt divers and shore-based anglers from any established cabezon slot limit
4. Increase the lingcod size limit from 24 to 26 inches total length.

Management Area Boundaries

5. Change the boundaries of the Rockfish and Lingcod Management Areas (RLMAs) to create five RLMAs.
 - Northern RLMA: California-Oregon Border to 40°10' North latitude near Cape Mendocino
 - North-Central RLMA: 40°10' North latitude near Cape Mendocino to Point San Pedro, San Mateo County (37°35' North latitude) (New RLMA)
 - Central RLMA: Point San Pedro, San Mateo County (37°35' North latitude) to Lopez Point, Monterey County (36°01' North latitude) (new boundaries)
 - South-Central RLMA: Lopez Point, Monterey County (36°01' North latitude) to Point Conception, Santa Barbara County (34°27' North latitude) (New RLMA)
 - Southern RLMA: Point Conception, Santa Barbara County (34°27' North latitude) to the U.S.-Mexico Border
6. Change the boundaries of the Cowcod Conservation Areas (CCAs) to conform with the boundaries adopted by the Council (the same boundaries as proposed for the commercial fixed gear fishery).

Fishing Depths

7. Change the depths where fishing is allowed in the RLMAs:
 - Northern RLMA: establish a maximum depth of either 27 or 30 fathoms.
 - North-Central RLMA: establish a maximum depth between the range of 20-40 fathoms.
 - Central RLMA: establish a maximum depth between the range of 20-40 fathoms.
 - South-Central RLMA: establish a maximum depth between the range of 20-60 fathoms.
 - Southern RLMA: establish a maximum depth between the range of 20-80 fathoms.
8. Allow California scorpionfish to be taken during closed months inside 50 fathoms at Huntington Flats, if depths selected for rockfish were less than 50 fathoms in some months.

Seasons

9. Establish a 6- to 12-month season south of 40°10' North latitude.
10. Adopt the same open periods for recreational and commercial fishing within each geographic area.

Other alternatives available to federal and State fisheries managers include: more drastic cuts in rockfish/lingcod bag limits; reducing the fishing season (shorter open periods) for rockfish, lingcod and associated species; and reducing size of the areas where fishing can occur. Any of these more drastic measures, in conjunction with commercial fishing restrictions being imposed on groundfish fisheries by the Council, would be expected to achieve the primary objective of reducing harvests of rockfish and lingcod sufficiently to contribute to rebuilding of these stocks. However, even if fishing is severely restricted under more severe regulatory options than proposed here, or entirely curtailed, rebuilding of some overfished stocks is estimated to require decades before directed fishing on these species could again be authorized. Therefore, every effort is being made to adopt regulations that will continue to provide for some continued fishing opportunity and to avoid a total long-term elimination of fishing opportunities.

The option of further reducing the daily bag limit of rockfish is not necessary at this time, and is generally unpopular with the public because of the costs associated with fishing in offshore waters today relative to what fishermen consider a satisfying sport fishing experience. Rockfish are generally pursued by recreational anglers for their qualities as food rather than their fighting ability as a sport fish. Consequently, larger bag limits represent a higher quality fishing trip in the minds of most saltwater anglers. CPFVs that take anglers and divers fishing for a fee are greatly concerned that, if the number of rockfish in the daily bag limit is reduced sufficiently, anglers and divers will not pay to participate in this activity.

Total elimination of fishing, while still a possibility if future assessments of overfished stocks indicate little or no improvements, would have greater adverse social and economic effects than the proposed restrictions which are being lessened compared with the 2003 sport fishing regulations for groundfish. These include the further shifting of fishing effort onto other fish stocks and the potential elimination of sectors of the recreational fishery during all or portions of the year, particularly off central and northern California where rockfish and lingcod represent a significant segment of marine finfish available to the fishing public.

(b) No Change Alternative:

The no-change alternative would conflict with the federal regulations for 2004. In addition, the no-change alternative does not provide for improved fishing opportunities as a result of the improved population status of bocaccio and does not address the need for further protections for canary and yelloweye rockfishes to meet the federal rebuilding requirements. The continued need to meet federal rebuilding goals for

overfished shelf rockfish stocks, in combination with efforts to provide for continued ability to fish for healthy stocks of shelf and nearshore rockfish without jeopardizing these stocks, argues for adoption of the proposed management measures reflected in the options provided here.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed increase in the fishing season (open periods) for rockfish and lingcod off California south of 40°10' North latitude (near Cape Mendocino) from six month in 2003 to ten months in 2004 is expected to have a positive economic benefit for recreational CPFV businesses, sportfishing shops, and gear and tackle manufacturers. The proposed four-month increase in the fishing season represents a 66 percent increase in fishing time provided in 2003.

Information from the National Marine Fisheries Service (NMFS) estimates anglers aboard CPFVs take roughly 43 percent of all ocean rockfishes caught by all recreational fishermen in northern California and 67 percent in southern California. Of all CPFV trips taken in 2002, 5.9 percent occurred in northern California in waters greater than 20 fathoms and specifically targeted rockfish and lingcod, and 0.8 percent occurred in southern California in waters greater than 20 fathoms and specifically targeted rockfish and lingcod. Based on a NMFS survey of year 2000 angler expenditures (NMFS 2001), total party boat charter fees paid annually by passengers amounted to about \$13 million and \$51 million for northern and southern California, respectively. This includes both resident and non-resident CPFV passenger expenditures.

We would expect some positive economic benefit to recreational CPFV businesses by increasing the water depths that can be fished. For

example, if fishing trips increase by only 10 percent overall, as a result of extending the depth beyond 20 fathoms, we might realize an increase in CPFV revenues of \$76,700 in northern California, and \$40,800 in southern California. This is based on the percentage of CPFV passenger fee expenditures for trips at depths greater than 20 fathoms and specifically targeting rockfish and lingcod, amounting to \$767,000 (\$13 million x 5.9 percent) for northern California and \$408,000 (\$51 million x 0.8 percent) for southern California using NMFS's year 2000 expenditure data. We would also expect a positive, but unquantifiable, economic benefit for sportfishing shops and gear and tackle manufacturers due to the increase in the water depths that can be fished.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Some increase in jobs could result if CPFVs are better able to operate profitably due to the reduced closure periods and increased areas available for fishing in 2004 [See comments under (a) above].

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Updated Informative Digest/Policy Statement Overview

The California Fish and Game Commission (Commission) proposes to adopt sport fishing regulations for groundfish and associated species of finfish that conform to those of the Pacific Fishery Management Council (Council), and that regulate associated state-managed species in a manner that provides for continued recreational fishing opportunities consistent with efforts to conserve species and restore overfished stocks of groundfish. The Council met September 8-12, 2003 to approve final regulatory recommendations affecting recreational and commercial fishing for groundfish and associated species during 2004.

Under existing law, west coast groundfish, including rockfish and lingcod, are managed by the Council pursuant to the Pacific Coast Groundfish Fishery Management Plan (Groundfish Plan) to comply with policies and standards of the Federal Sustainable Fisheries Act, Public Law 94-265. Current federal law requires that rebuilding plans be adopted for those groundfish stocks that are determined by the Council to be overfished. Specified stocks of shelf and slope rockfish (bocaccio, cowcod, canary, and yelloweye rockfishes) and lingcod, that are generally found deeper than 20 fathoms (120 feet), are currently assessed as overfished, with rebuilding expected to take several decades in the case of some species of rockfish. Other species of finfish that occur in association with rockfishes, and for which changes in regulations are being considered for the 2004 calendar year, include California scorpionfish, ocean whitefish, cabezon, greenlings, and California sheephead. A recently completed assessment of bocaccio off California indicates improvement in the stock compared with last year providing for consideration of some relaxation of recreational and commercial fishing regulations for 2004.

Existing sportfishing regulations for groundfish and associated species (including rockfish, lingcod, cabezon, California scorpionfish, California sheephead, greenlings, and ocean whitefish) include size and bag limits, and designate when and where (season and depths) they may be taken and possessed. Existing regulations establish boundaries and provisions for fishing in the Northern, Central and Southern Rockfish and Lingcod Management Areas (RLMAs), Cowcod Conservation Areas, and the California Rockfish Conservation Area. Regulations currently authorize the Department of Fish and Game (Department) to close sport fishing for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish if the Department determines that annual harvest limits adopted as regulation by the National Marine Fisheries Service for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish are exceeded, or are projected to be exceeded.

The proposed changes would, in most cases, lessen fishing restrictions on the recreational take and possession of groundfish and associated state-managed species in response to recent assessments of the status of some groundfish species. Regulation changes being considered by the Commission include adjustments to authorized fishing seasons and depths for rockfish, lingcod and associated species

within the Central and Southern RLMAs. Also being considered are changes in bag limits for bocaccio, canary and yelloweye rockfishes, and exceptions to season and area closures. In addition, sections dealing with bag limits and with season and area closures in management and conservation areas have been reorganized in an effort to make them easier for the public to understand.

More specifically, the proposed changes to recreational fishing regulations in waters off California include the following:

- Set the daily bag limit for canary and yelloweye rockfishes in the area from 42°00' North latitude (California-Oregon border) south to 40°10' North latitude (near Cape Mendocino) at zero. *[Conformance with federal regulations; amendment adopted by the Council on September 12, 2003.]*
- Allow one bocaccio to be retained in the rockfish bag limit in the area from 40°10' North latitude (near Cape Mendocino) to the U.S.-Mexico border (current limit is zero). *[Conformance with federal regulations; amendment adopted by the Council on September 12, 2003.]*
- In the Central RLMA, provide for a 10-month season (January, February, and May through December) for rockfishes (except canary, cowcod, and yelloweye), cabezon, greenlings (of the genus *Hexagrammos*), lingcod and California scorpionfish with the following depth constraints and area closures:
 - Allow fishing only in waters less than 30 fathoms (180 feet) during January, February, and September through December;
 - Allow fishing only in waters less than 20 fathoms (120 feet) during May through August;
 - Prohibit fishing in waters less than 10 fathoms (60 feet) around the Farallon Islands and Noonday Rock; and
 - Prohibit fishing in all waters of Cordell Bank.*[Conformance with federal regulations; amendment adopted by the Council on September 12, 2003.]*
- In the Southern RLMA, provide for a 10-month season (March through December) for rockfishes (except canary, cowcod, and yelloweye), cabezon, greenlings (of the genus *Hexagrammos*), and lingcod; and provide for a 4-month season (March, April, November and December) for California scorpionfish. During the open periods, allow fishing only in waters less than 60 fathoms (360 feet), except in the Cowcod Conservation Areas, where fishing would continue to only be allowed in waters less than 20 fathoms (120 feet). *[Conformance with federal regulations; adopted by the Council on September 12, 2003.]*
- In the Southern RLMA, remove the provision allowing fishing for California scorpionfish at Huntington Flats in waters less than 50 fathoms. *[Conformance with federal regulations; adopted by the Council on September 12, 2003.]*
- Describe the 10-, 20-, and 30-fathom depth constraints in the Central RLMA by general depth contour lines, and describe the 60-fathom depth constraint in the Southern RLMA by lines connecting waypoints adopted in federal regulations (50 CFR Part 660).

- For ocean whitefish (a state-managed species), the following options are proposed in the Central RLMA and Southern RLMA:
 - Option 1 (preferred option) - Align the ocean whitefish seasons and fishing depths with rockfish and lingcod seasons and fishing depths. *[Help achieve groundfish management goals.]*
 - Option 2 - Provide for a year-round fishery, and allow fishing only in waters less than 20 fathoms (120 feet). *[Exemptions to proposed or existing depth or season constraints.]*
 - Option 3 - Provide for a year-round fishery, and allow fishing only in waters less than 60 fathoms (360 feet). *[Exemptions to proposed or existing depth or season constraints.]*
 - Option 4 - Provide for a year-round fishery with no depth constraints. *[Exemptions to proposed or existing depth or season constraints.]*
- For California sheephead (a state-managed species), the following options are proposed in the Central RLMA and Southern RLMA:
 - Option 1 (*status quo*; no change to current regulations) - Provide for a year-round fishery with no depth constraints. *[Exemptions to proposed or existing depth or season constraints.]*
 - Option 2 (preferred option) - Align the California sheephead seasons and fishing depths with rockfish and lingcod seasons and fishing depths. *[Help achieve groundfish management goals.]*
 - Option 3 - Provide for a year-round fishery, and allow fishing only in waters less than 20 fathoms (120 feet). *[Exemptions to proposed or existing depth or season constraints.]*
 - Option 4 - Provide for a year-round fishery, and allow fishing only in waters less than 60 fathoms (360 feet). *[Exemptions to proposed or existing depth or season constraints.]*
- Exempt shore-based recreational divers and anglers from seasonal closure periods for rockfish, lingcod and associated species including cabezon, greenlings of the genus *Hexagrammos*, California scorpionfish, California sheephead, and ocean whitefish. The following options are proposed to clarify the activities that would be authorized under the exemption for shore-based divers and anglers:
 - Option 1 – Does not allow the use of any watercraft.
 - Option 2 – Authorizes the use of only non-motorized watercraft deployed from shore for spearfishing, and prohibits all types of fishing gear except spearfishing gear aboard the watercraft. *[Exemptions to proposed or existing depth or season constraints.]*
- Add cabezon to the list of recreational fisheries that may be closed by the Department in-season when the Department determines that the federal annual harvest limit has been exceeded or is projected to be exceeded.
- Modify the structure and/or organization of sections 27.60, 27.82, and 27.83 to improve clarity and increase public understanding of these regulations, and make some technical changes to the sections 27.82 and 27.83 to clarify the intent of these regulations.

Section 27.60

- In the subsection on special limits (subsection (b)(3)), the listings of bag limits for each species or group were put in tabular form for easy reading.

Section 27.82

- Reorganize the structure the section to simplify and clarify the regulations. The general RLMA boundaries are in subsection (a), the seasons and depth constraints are in subsection (b), the exceptions to these provisions are in subsection (c), the definitions of areas and special rules relating to the protection of cowcod are in subsection (d), and a description of the closure process is in subsections (e) and (f).
- Add the following *status-quo* exemption for clarity: vessels that have rockfish, lingcod, or associated species aboard may transit in waters deeper than those where fishing is authorized provided that no fishing gear is deployed.
- Remove the separate provision for the Northern RLMA that specifies when the federal harvest guideline for canary rockfish or yelloweye rockfish is reached or projected to be exceeded, the retention of canary and yelloweye will be prohibited and waters 27 fathoms or greater may be closed to fishing for rockfish and lingcod. It is no longer needed, because the proposed regulations prohibit the retention of canary and yelloweye rockfishes in the Northern RLMA, and existing regulations provide for closing all or part of each RLMA if a harvest guideline has been exceeded or is projected to be exceeded.
- Clarify that an annual harvest limit can be an optimum yield (OY) or a harvest guideline.

Section 27.83

- Add language stating that the Section serves to regulate the use of recreational fishing gear in areas which, during specified months and in specified water depths, are closed to fishing for rockfish and associated species.
- Remove the definitions of the management areas and refer to the definitions in Section 27.82.
- Modify the regulation to clarify that vessels may transit the California Rockfish Conservation Area and Cowcod Conservation Areas with prohibited gear provided that no gear is in the water.
- Remove the reference to an outer boundary to simplify and standardize the recreational gear restrictions in all waters, times and areas not open to fishing for rockfish and lingcod.

- minor editorial changes are also proposed in sections 28.27, 28.28, 28.29, 28.54, and 28.58 to improve the clarity and consistency of the regulations.

Actions by the Commission:

Following the receipt of public comment and discussion of the regulations, the Commission voted to adopt the proposed regulations which will conform State regulations with the federal regulations for the 2004 recreational groundfish fishery. In addition, the Commission adopted the options to align ocean whitefish and California sheephead fishing depths and seasons with rockfish and lingcod fishing depths and seasons. The Commission also adopted the proposed regulations to clarify or simplify Sections 27.60, 27.82, and 27.83, Title 14, CCR, the proposed regulations to modify the groundfish fishery closure provisions, and several non-substantive technical changes to the regulations.

The Commission did not adopt the proposed regulations to exempt shore-based divers and anglers from the closed periods for rockfish, lingcod and associated species (including cabezon, greenlings of the genus *Hexagrammos*, California scorpionfish, California sheephead, and ocean whitefish.

